**Court No. - 90**

**Case :-** APPLICATION U/S 482 No. - 40019 of 2023

**Applicant :-** Yashpal Singh
**Opposite Party :-** State Of U.P. And 4 Others
**Counsel for Applicant :-** R.P.S. Chauhan
**Counsel for Opposite Party :-** G.A.

**Hon'ble Dinesh Pathak,J.**

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The present applicant has invoked the inherent power of this Court under Section 482 CrPC beseeching the quashing of order dated 22.8.2019 passed by Principal Judge, Family Court, Sambhal in Case No. 456 of 2013, under Section 125 CrPC (Smt. Monika and others Vs. Yashpal Singh) as well as order dated 17.11.2022 passed by learned Additional Judge, Family Court, Court No. 1, Bareilly in Case No. 1106 of 2020 (Yashpal Singh Vs. Smt. Monika and others), under Section 126(2) CrPC.

3. Facts culled out from the record are that Opposite Party No. 2 (wife) along her three children has filed an application dated 30.4.2013 for maintenance under Section 125 CrPC. In the aforesaid proceeding, the present applicant appeared and filed his written statement. At later stage, he had avoided the court proceeding. Consequently, last opportunity was proffered to the present applicant to adduce the evidence. However, he failed to do so thus, ultimately, his opportunity to adduce evidence has been closed on 21.8.2019 and the matter was heard ex-parte against the present applicant. Learned Additional Principal Judge, Family Court No. 1, Bareilly, vide order dated 22.8.2019, has allowed the application under Section 125 CrPC directing the present applicant to pay maintenance to his wife to the tune of Rs. 2,000/- per mensem and his three children Rs. 500/- each per mensem. Having been aggrieved, the present applicant has moved a recall application against the order dated 22.8.2019 along with delay condonation application. Learned trial court has rejected the said application, vide order dated 17.11.2023, which is under challenge before this Court.

4. Having considered the record on board and the submission as

advanced by the learned counsel for the applicant, it is manifested that the learned Additional Principal Judge, Family Court No. 1, Bareilly has rightly rejected the restoration application assigning reason that while passing the final order dated 22.8.2019, learned court concerned has carefully considered the record placed before it. Despite sufficient time granted to the present applicant, he has deliberately avoided the court proceedings after filing his written statement. Last opportunity was also accorded to the applicant on 6.6.2019 to adduce his evidence and thereafter opportunity of evidence has been closed vide order dated 21.8.2019.

5. In the light of the observation made by the learned Additional Principal Judge, Family Court No. 1, Bareilly, in its order dated 22.8.2019, it cannot be said that the order was passed ex-parte. The present applicant was reluctant in his conduct to attend the court despite having full knowledge. The bonafidies of the present applicant is under cloud. It appears that the applicant was more interested to protract the litigation for one pretext or the other for reasons known to him best. I do not find any illegality, perversity, ambiguity or infirmity in the order under challenge by which restoration application moved on behalf of the present applicant has been rejected.

6. As such, instant application assailing the order dated 17.11.2022 is dismissed being devoid on merits.

**Order Date :-** 11.12.2023
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Digitally signed by :-
VINAY KUMAR
High Court of Judicature at Allahabad